TEXAS DEPARTMENT OF INSURANCE
Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)
7551 Metro Center Drive, Suite 100, Austin, Texas 78744-1645
(512) 804-4000 | F: (512) 804-4811 | (800) 252-7031 | TDI.texas.gov | @TexasTDI

MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name
METROCREST SURGERY CENTER

Respondent Name
EMPLOYERS PREFERRED INS CO

MFDR Tracking Number
M4-17-0789-01

Carrier's Austin Representative
Box Number 04

MFDR Date Received
NOVEMBER 21, 2016

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "This clean claim was billed requesting the surgical procedure be paid at 153% of CMS with separate reimbursement for our implants…In this case our implants cost more than was paid on the claim... At this time we are requesting that this claim be paid in accordance with the 2016 Texas Workers Comp Fee Schedule and Guidelines."

Amount in Dispute: $2,925.74

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "Please see the attached EOR with an additional payment recommendation of $4967.00 for the implants. The provider billed at cost, therefore no additional markup was allowed. We are upholding our original payment decision on CPT 29827 as this paid correctly according to the multiple procedure rules. CPT 23430 was allowed at 100% of fee schedule and 29827 was allowed at 50% of fee schedule. The full fees schedule value of both codes are $5797.92."

Response Submitted By: Bunch CareSolutions

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
April 26, 2016	Ambulatory Surgical Care for CPT Code 29827-RT	$875.86	$0.00
	Ambulatory Surgical Care for CPT Code 29826-RT	$00.0	$0.00
	Ambulatory Surgical Care for CPT Code 23430-RT	$0.00	$0.00
	Ambulatory Surgical Care for HCPCS Code C1713	$5,463.70 COST + 10%	$0.00
TOTAL		$2,925.74	$0.00

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and applicable rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §134.402, effective August 31, 2008, sets out the reimbursement guidelines for ambulatory surgical care services.
3. Texas Labor Code 413.011(b) provides for additions or exceptions to the Medicare policies.
4. The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
   - U403-This multiple procedure was reduced 50 percent according to fee schedule or FairHealth benchmark data.
   - P300-The amount paid reflects a fee schedule reduction.
   - Z710-The charge for this procedure exceeds the fee schedule allowance.
   - B839-In accordance with CMS guidelines, this service does not warrant a separate payment.
   - B489-Invoice required for payment.
   - 193-Original payment decision is being maintained. This claim was processed properly the first time.
   - 309-The charge for this procedure exceeds the fee schedule allowance.
   - P12-Workers' compensation jurisdictional fee schedule adjustment.
   - 1001-Based on the corrected billing and/or additional information/documentation now submitted by the provider, we are recommending further payment to be made for the above noted procedure code.
   - 1014-The attached billing has been re-evaluated at the request of the provider. Based on this re-evaluation, we find our original review to be correct. Therefore, no additional allowance appears to be warranted.
   - 6477-Please provide a manufacturers invoice for items billed.
   - 18-Duplicate claim/service.
   - 247-A payment or denial has already been recommended for this service.
   - 306-Billing is a duplicate of other services performed on same day.
   - B13-Previoulsy paid. Payment for this claim/service may have been provided in a previous payment.
   - 11-The recommended allowance for the supply was based on the attached invoice.

Issues

Is the requestor entitled to additional reimbursement for ambulatory surgical care center services rendered on April 26, 2016?

Findings

1. The requestor is seeking additional reimbursement of $875.86 for CPT code 29827 rendered on April 26, 2016.

   The fee guideline for Ambulatory Surgical Care services is found in 28 Texas Administrative Code §134.402.

   28 Texas Administrative Code §134.402(d) states,

   > For coding, billing, and reporting, of facility services covered in this rule, Texas workers' compensation system participants shall apply the Medicare payment policies in effect on the date a service is provided with any additions or exceptions specified in this section.

   CPT code 29827 is defined as arthroscopy for rotator cuff repair.

   28 Texas Administrative Code §134.402(f)(1)(B) states,

   > The reimbursement calculation used for establishing the MAR shall be the Medicare ASC reimbursement amount determined by applying the most recently adopted and effective Medicare Payment System Policies for Services Furnished in Ambulatory Surgical Centers and Outpatient Prospective Payment System reimbursement formula and factors as published annually in the *Federal Register*. Reimbursement shall be based on the fully implemented

payment amount as in ADDENDUM AA, ASC COVERED SURGICAL PROCEDURES FOR CY 2008, published in the November 27, 2007 publication of the *Federal Register*, or its successor. The following minimal modifications apply: (1) Reimbursement for non-device intensive procedures shall be: (B) if an ASC facility or surgical implant provider requests separate reimbursement for an implantable, reimbursement for the non-device intensive procedure shall be the sum of: (i) the lesser of the manufacturer's invoice amount or the net amount (exclusive of rebates and discounts) plus 10 percent or $1,000 per billed item add-on, whichever is less, but not to exceed $2,000 in add-on's per admission; and (ii) the Medicare ASC facility reimbursement amount multiplied by 153 percent.

According to Addendum AA, CPT code 29827 is a non-device intensive procedure. The requestor appended modifier "RT-Right Side" to code 29827.

The Medicare fully implemented ASC reimbursement for code 29827 CY 2016 is $2,486.22.

To determine the geographically adjusted Medicare ASC reimbursement for code 29827:

The Medicare fully implemented ASC reimbursement rate of $2,486.22 is divided by 2 = $1,243.11.

This number multiplied by the City Wage Index Carrollton, Texas is $1,243.11 X 0.9847 = $1,224.09.

Add these two together $1,243.11 + $1,224.09 = $2,467.20.

To determine the MAR multiply the geographically adjusted Medicare ASC reimbursement by the DWC payment adjustment factor of 153%

$2,467.20 X 153% = $3,774.81. Code 29827 is subject to multiple procedure discounting; therefore, $3,774.81 X 50% = $1,887.40. The respondent paid $2,898.96; therefore, additional reimbursement is not recommended.

2. CPT code 23430 is defined as "Tenodesis of long tendon of biceps."

   According to Addendum AA, CPT code 23430 is a non-device intensive procedure. The requestor appended modifier "RT-Right Side" to code 23430.

   The Medicare fully implemented ASC reimbursement for code 23430 CY 2016 is $2,486.22

   Using the above formula, the MAR for code 23430 is $3,774.81. The respondent paid $5,797.92.

3. CPT code 29826 is defined as "Arthroscopy, shoulder, surgical; decompression of subacromial space with partial acromioplasty, with coracoacromial ligament (ie, arch) release, when performed (List separately in addition to code for primary procedure)."

   The requestor indicated in the position statement that the fee guideline "allows $0.00 (no dispute). A review of the submitted explanation of benefits finds that the respondent paid $0.00 for code 29826.

4. HCPCS code C1713 is defined as "Anchor/screw for opposing bone-to-bone or soft tissue-to-bone (implantable)."

   The respondent paid $4,967.00 for HCPCS code C1713 based upon the total amount billed. The requestor contends that additional reimbursement is due per the fee guideline.

   The fee guideline for Ambulatory Surgical Care Services is found in 28 Texas Administrative Code §134.402.

   28 Texas Administrative Code §134.402(d) states,

   > For coding, billing, and reporting, of facility services covered in this rule, Texas workers' compensation system participants shall apply the Medicare payment policies in effect on the date a service is provided with any additions or exceptions specified in this section.

   According to *Addendum BB, Final ASC Covered Ancillary Services Integral to Covered Surgical Procedures for CY 2016 (Including Ancillary Services for Which Payment is Packaged*), HCPCS Code C1713 has a payment indicator of "N1".

   Addendum DD1, Final ASC Payment Indicators for CY 2016, defines payment indicator "N1" as "Packaged

service/item; no separate payment made."

Section 413.011(b) of the Texas Labor Code states,

> In determining the appropriate fees, the commissioner shall also develop one or more conversion factors or other payment adjustment factors taking into account economic indicators in health care and the requirements of Subsection (d). The commissioner shall also provide for reasonable fees for the evaluation and management of care as required by Section 408.025(c)and commissioner rules. This section does not adopt the Medicare fee schedule, and the commissioner may not adopt conversion factors or other payment adjustment factors based solely on those factors as developed by the federal Centers for Medicare and Medicaid Services.

28 Texas Administrative Code §134.402's preamble states,

> The Division is adopting minimal modifications to Medicare's reimbursement methodology to reflect use of separate reimbursement for surgically implanted devices in non-device intensive procedures to ensure injured employees have access to care, including surgery where surgically implanted devices are medically necessary.

Even though HCPCS code C1713 has a payment indicator of N1, Section 413.011(b) of the Texas Labor Code, 28 Texas Administrative Code §134.402(d), and its preamble, make the exception to Medicare's policies and allow separate reimbursement for implantables.

28 Texas Administrative Code §134.402(b)(5) states,

> Implantable means an object or device that is surgically:
>
> (A) implanted,
> (B) embedded,
> (C) inserted,
> (D) or otherwise applied, and
> (E) related equipment necessary to operate, program, and recharge the implantable.

The requestor billed HCPCS code C1713 for implantables used for surgery on claimant's right shoulder.

28 Texas Administrative Code §134.402(f)(1)(B)(i) states,

> The reimbursement calculation used for establishing the MAR shall be the Medicare ASC reimbursement amount determined by applying the most recently adopted and effective Medicare Payment System Policies for Services Furnished in Ambulatory Surgical Centers and Outpatient Prospective Payment System reimbursement formula and factors as published annually in the *Federal Register*. Reimbursement shall be based on the fully implemented payment amount as in ADDENDUM AA, ASC COVERED SURGICAL PROCEDURES FOR CY 2008, published in the November 27, 2007 publication of the *Federal Register*, or its successor. The following minimal modifications apply: (1) Reimbursement for non-device intensive procedures shall be: (B) if an ASC facility or surgical implant provider requests separate reimbursement for an implantable, reimbursement for the non-device intensive procedure shall be the sum of: (i) the lesser of the manufacturer's invoice amount or the net amount (exclusive of rebates and discounts) plus 10 percent or $1,000 per billed item add-on, whichever is less, but not to exceed $2,000 in add-on's per admission.

A review of the submitted documentation finds that the requestor submitted copies of invoices from Arthrex to support cost of implantables used in the surgery.

The Division reviewed the invoices and Implant Record and finds the MAR per 28 Texas Administrative Code §134.402(f)(1)(B)(i)(ii) is:

Implant	Unit Price	No. of Units	MAR (Unit Price plus 10%)
Suture Anchor 4.75 X 22mm	$479.00	4	$526.90 X 4 = $2,107.60
Suture Anchor 4.75 X 19.1mm	$540.00	4	$$594.00 X 4 = $2,376.00
Suture Anchor 5.5 X 14.7	$391.00	1	$430.10
Suture Anchor 7 X 19.5mm	$500.00	1	$550.00
TOTAL			$5,463.70

The total allowable for ambulatory surgical care services rendered on April 26, 2016 is $11,125.91. The respondent paid $13,663.88. As a result, additional reimbursement is not recommended.

Conclusion

For the reasons stated above, the Division finds that the requestor has not established that additional reimbursement is due. As a result, the amount ordered is $0.00.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the Division has determined that the requestor is entitled to $0.00 reimbursement for the disputed services.

Authorized Signature

Signature	Medical Fee Dispute Resolution Officer	01/12/2017 Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, 37 *Texas Register* 3833, applicable to disputes filed on or after June 1, 2012.

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MFDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.